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FILE CONNER

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02 CV 5241

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 UNITED STATES OF AMERICA,

Plaintiff,

v.

WESTWATER COMMONS CORP.,

Defendant.
 -----X

COMPLAINT

02 Civ.

JURY TRIAL DEMANDED

U.S. DISTRICT COURT
 S.D.N.Y.
 2002 JUL -9 PM 3:12

Plaintiff, United States of America, by its attorney,
 James B. Comey, United States Attorney for the Southern District of
 New York, alleges for its complaint upon information and belief as
 follows:

PRELIMINARY STATEMENT

1. This is a civil action for declaratory relief,
 injunctive relief, and compensatory and punitive damages under
 the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, et seq. (the
 "Act"), brought by the United States of America (the "United
 States") on behalf of Barbara King and her minor children, Maya
 King and Shawn King, (collectively, the "Kings") to redress
 discrimination on the basis of their familial status.

2. As alleged more fully below, defendant unlawfully

discriminated against the Kings by refusing to sell after the making of a bona fide offer, or by otherwise making unavailable or denying the Kings a two-bedroom apartment because of their familial status.

3. Defendant's conduct violates the Fair Housing Act, 42 U.S.C. §§ 3601, et seq., and should be declared unlawful and permanently enjoined, and appropriate money damages should be awarded.

4. The United States requests a trial by jury as to the issues of liability and compensatory and punitive damages.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 42 U.S.C. §§ 3601, et seq., and 28 U.S.C. §§ 1331 and 1345.

6. Venue is proper under 28 U.S.C. §§ 1391(b) and (c). Defendant Westwater Commons Corp. ("Defendant" or "Westwater") resides in this District, and the events giving rise to this complaint occurred in this District.

THE PARTIES

7. The plaintiff is the United States.

8. Barbara King made a timely election to have her claims decided in a civil action pursuant to 42 U.S.C. § 3612(a). Accordingly, authority to bring this action on behalf of the Kings is vested in the United States Department of Justice pursuant to 42 U.S.C. § 3612(o).

9. Defendant Westwater Commons Corp. is a cooperative housing development that owns and operates approximately fifty-three cooperative units, including the subject two-bedroom apartment, located at 380 North Broadway, Apartment 8D, Yonkers, New York 10701 (the "Apartment").

10. The Apartment and the other units in Westwater Commons Corp. are "dwellings" covered by the Act, 42 U.S.C. § 3602(b).

11. Barbara King lives with her two children, Maya and Shawn, who, during the relevant times in this Complaint, were aged 4 and 14, respectively.

12. The Kings are aggrieved persons as that term is defined by the Act, 42 U.S.C. § 3602(i), and have suffered damages as a result of the Defendant's conduct.

PROCEDURAL BACKGROUND

13. On or about June 29, 1999, Barbara King filed an administrative complaint with the United States Department of Housing and Urban Development ("HUD"), alleging housing discrimination against the Kings by Defendant based on their familial status.

14. Pursuant to the requirements of 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD (the "Secretary") conducted and completed an investigation of the administrative complaint (the "HUD investigation").

15. HUD attempted to conciliate the dispute between

Defendant and the Kings, but its conciliation efforts were unsuccessful.

16. Based upon information gathered in the HUD investigation, and acting pursuant to 42 U.S.C. § 3610(g)(1) and (2), the Secretary determined that there was reasonable cause to believe that a discriminatory housing practice had occurred.

17. Accordingly, on or about May 21, 2002, the Secretary issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(1) and (2), charging that Defendant had violated the Act by discriminating against the Kings based on their familial status.

18. On or about June 11, 2002, Barbara King elected to have the Secretary's charges resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

19. Pursuant to 42 U.S.C. § 3612(o), the Secretary has authorized the Attorney General to commence this action on behalf of the Kings.

FACTS

20. On or about November 2, 1998, Barbara King entered into a contract to purchase the Apartment from Cornelius Riordan for \$66,500.

21. The Apartment is located directly above the apartment unit occupied by Margaret Sharper, a member of the Westwater Board of Directors (the "Board").

22. The sale of the Apartment from Mr. Riordan to Ms. King was subject to the Board's approval.

23. As part of the Board's approval process, Defendant required that Ms. King submit an application listing the name of all persons who would reside in the Apartment and if there were to be children living in the Apartment, the number and ages of the children.

24. Defendant also asked Ms. King to bring her teenage son Shawn to an interview with the Board.

25. The Board interviewed Ms. King and her son on or about February 17, 1999.

26. On or about February 26, 1999, the Board rejected the Kings' application.

27. The Board failed to articulate any reason to Ms. King for the rejection.

28. During the course of the HUD investigation, Defendant represented that the Board rejected the Kings' application on the ground that Ms. King had insufficient financial resources to maintain the Apartment.

29. Ms. King, however, was financially qualified to purchase and maintain the Apartment when she applied for the Board's approval, and the Board's rationale for rejecting the application is a pretext for its unlawful discrimination.

30. The Board rejected the Kings' application to

purchase the Apartment because of their familial status.

31. During the course of the Board's deliberations concerning the Kings' application, Ms. Sharper opposed the application because Ms. King has two children.

32. The president of the Board, Daphne Meadows, has stated that although Ms. King was qualified for the Apartment, she was not treated fairly because she has two children.

33. Approximately one year after denying the Kings' application, Defendant approved a sale of the Apartment to an applicant with no minor children.

FIRST CLAIM FOR RELIEF

For Violations of 42 U.S.C. § 3604(a)

34. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 33 of this Complaint as if fully set forth in this paragraph.

35. Defendant violated the Fair Housing Act, 42 U.S.C. § 3604(a), by refusing to sell after the making of a bona fide offer, or by otherwise making unavailable or denying the Kings the Apartment because of their familial status.

36. Defendant's conduct was undertaken with the intent to discriminate against the Kings because of their familial status.

37. The discriminatory actions of Defendant were intentional, willful, and taken in disregard of the rights of the

Kings.

SECOND CLAIM FOR RELIEF

For Violations of 42 U.S.C. § 3604(b)

38. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 33 of this Complaint as if fully set forth in this paragraph.

39. Defendant violated the Fair Housing Act, 42 U.S.C. § 3604(b), by discriminating against the Kings in the terms, conditions, and privileges of the sale of the Apartment because of their familial status.

40. Defendant's conduct was undertaken with the intent to discriminate against the Kings because of their familial status.

41. The discriminatory actions of Defendant were intentional, willful, and taken in disregard of the rights of the Kings.

RELIEF REQUESTED

WHEREFORE, Plaintiff United States of America requests that the Court enter judgment:

1. Declaring that the discriminatory housing practices of Defendant as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, et seq.;

2. Enjoining Defendant, its agents, employees, and successors, and all other persons in active concert or

participation with any of them, from discriminating on the basis of familial status against any person in any aspect of the rental or sale of a dwelling. Specifically, Defendant should be enjoined from refusing to sell, rent or lease or otherwise make unavailable their apartments to families with minor children.

3. Awarding such damages as will compensate the Kings fully for their loss of a housing opportunity, humiliation, emotional distress, inconvenience, and economic loss caused by Defendant's discriminatory conduct, pursuant to 42 U.S.C. § 3612(o)(3) and 42 U.S.C. § 3613(c);

4. Awarding punitive damages to the Kings pursuant to 42 U.S.C. § 3612(o)(3) and 42 U.S.C. § 3613(c); and

5. Granting such further relief as this Court may deem just.

Dated: New York, New York
July 9, 2002

JAMES B. COMEY
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Southern District of New York
Attorney for Plaintiff
United States of America

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